

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Byron J. Contreras,)	
)	
Petitioner,)	Civil Action No. 8:05-cv-3352-MBS-BHH
)	
vs.)	<u>REPORT OF MAGISTRATE JUDGE</u>
)	
NFN Pettiford, Warden,)	
)	
Respondent.)	
_____)	

The plaintiff is proceeding in this action *pro se*. He is seeking relief pursuant to Title 28, United States Code, Section 2241. On March 24, 2006, the defendant filed a motion for summary judgment. On March 27, 2006, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.

As the plaintiff is proceeding *pro se*, the Court filed a second order on May 5, 2006, giving the plaintiff through May 30, 2006, to file his response to the motion for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff elected not to respond.

Based on the foregoing and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982) and *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), it appears the plaintiff no longer wishes to pursue this action. The petitioner is proceeding *pro se* so he is entirely responsible for his actions. The petitioner has not responded to the motion for summary judgment. It is solely through his own neglect, and not that of any attorney, that no response has been filed. No other reasonable sanctions are available.

Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. See *Ballard*, 882 F.2d 93.

s/Bruce H. Hendricks
United States Magistrate Judge

August 22, 2006
Greenville, South Carolina